

**REMARKS**

Claims 1-33 are pending in this application. By this Amendment, claim 31 is amended and claim 33 is added. The amendment and added claim introduce no new matter. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

Applicants appreciate the courtesies shown to Applicants' representative by Examiner Nicolas in the July 15, 2008 personal interview. Applicants' separate record of the substance of the interview is incorporated into the following remarks.

The Office Action, in paragraph 6, states claims 1-30 are allowed. Applicants appreciate the allowance of these claims.

The Office Action, in paragraph 3, rejects claim 31 under 35 U.S.C. §112, second paragraph as being indefinite. Claim 31 is amended to obviate the rejection. Accordingly, reconsideration and withdrawal of the rejection of claim 31 under 35 U.S.C. §112, second paragraph, are respectfully requested.

The Office Action, in paragraph 5, rejects claims 31 and 32 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,358,149 to O'Neill. This rejection is respectfully traversed.

At the outset, Applicants are surprised that O'Neill is asserted at a newly discovered reference by which to reject claims 31 and 32. Applicants made arguments traversing previous rejections of the subject matter of certain of the pending claims over O'Neill to Examiner Kaufman, the Examiner previously responsible for this application. Applicants' arguments in this regard ultimately resulted in Examiner Kaufman withdrawing rejections of claims 31 and 32 over O'Neill and indicating in a July 31, 2007 Office Action that claims 31 and 32 were allowed. In fact, after taking over this matter, Examiner Nicholas indicated in a

January 11, 2008 Office Action that claims 31 and 32 were allowed over the art of record.

Clearly O'Neill was of record in this case at that time.

With regard to the current rejection of claims 31 and 32, as was discussed during the July 15 telephone interview, claim 31 recites, among other features, a moving body being movable relative to the receptacle including a push button and defining with the pump body a pump chamber of variable volume, the moving body including a skirt defining a passage via which substance present in the chamber is delivered toward the dispensing orifice, the skirt co-operating with the spike when the pump is at rest to isolate the inside of the skirt from the pump chamber. Claim 32 recites similar features. As was discussed with Examiner Nicholas, if the cylindrical flange 8 of the head 4 is determined to be the moving body movable relative to the receptacle, as is asserted in the Office Action, it is unclear how the alleged skirt 51 could be considered to be included with the moving body defining a passage via which substance present in the chamber 55 may be delivered toward the dispensing orifice 6 as seen in, for example, at Fig. 3 of O'Neill. The only manner by which substance present in the chamber could be moved via a passage is not by the alleged skirt cooperating with the spike, but rather by the alleged skirt being separable from and cooperating with the moving body. This is clearly shown in Fig. 3 of O'Neill, and as such it is not reasonable to assert that the alleged skirt is included in the alleged moving body. During the July 15 telephone interview, Examiner Nicholas did not rebut Applicant's representative's arguments in this regard.

For at least this reason, O'Neill cannot reasonably be considered to teach, or to have suggested, the combinations of all of the features positively recited in claims 31 and 32.

Accordingly, reconsideration and withdrawal of the rejection of claims 31 and 32 under 35 U.S.C. §102(b) as being anticipated by O'Neill are respectfully requested.

Added claim 33 is also neither taught, nor would it have been suggested, by O'Neill for at least the dependence of this claim on an allowable base claim, as well as for the separately patentable subject matter that claim 33 recites. Specifically, O'Neill cannot reasonably be considered to teach, or to have suggested, the combination of all of the features positively recited in independent claim 31, and in addition a feature wherein the passage via which substance is delivered is defined inside the skirt. The alleged passage in O'Neill is clearly outside the skirt.

In view of the foregoing, Applicants respectfully submit that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 31 and 32, in addition to the allowance of claims 1-30, are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number set forth below.

Respectfully submitted,  
  
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WPB:DAT/cfr

Attachment:  
Amendment Transmittal

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